

poses; provided, however, that neither said District as established and created, and hereby validated, nor the commissioners nor officers thereof, shall have or be granted any power or authority over the appointment, remuneration, operations or conduct of the Branch Pilots of the Galveston Bar and the commission of Pilots of the Galveston Bar; it being the intent of this Legislature to exclude the Branch Pilots and Commissioners of the Galveston Bar from any part of the operation of this Act or said District as established and created, any law or laws to the contrary notwithstanding.

Sec. 5. This Act shall have no application to any litigation pending upon the effective date hereof in which the validity of the creation of the District or of said bonds is involved if such litigation is ultimately determined against the legality thereof.

Sec. 6. If any word, phrase, clause, sentence, paragraph, or provision of this Act is held to be invalid or unconstitutional by a court of competent jurisdiction in this State, it is the intention of the Legislature that the remaining provisions thereof shall be effective, and that such remaining portions shall remain in full force and effect.

Sec. 7. The fact that the State as a whole has a vital interest in the navigation facilities to be provided by the District, and the crowded condition of the calendars of both Houses of the Legislature, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be, and the same is hereby suspended; and this Act shall be in full force and effect from and after its passage, and it is so enacted.

Passed the Senate, March 14, 1955: Yeas 26, Nays 1; passed the House, March 24, 1955: Yeas 118, Nays 0.

Approved April 2, 1955.

Effective April 2, 1955.

FEDERAL PROJECTS AFFECTING PUBLIC WATERS— PUBLIC HEARINGS

CHAPTER 47³⁷

H. B. No. 11

An Act requiring approval by the Board of Water Engineers, or its successors, of certain Federal projects affecting public waters of the State of Texas; defining terms; requiring the Governor to submit to the Board all engineering plans for a Federal project when executive approval thereof is sought; providing for public hearings to be held and notice thereof issued and published; providing for the Board to determine if a Federal project is feasible and setting standards for such determinations; requiring approval or disapproval by the Board of feasible or unfeasible projects; providing that the findings of the Board shall be final; excepting the State Soil Conservation Board from the provisions of the Act under certain conditions; repealing all conflicting laws; providing a saving clause; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. For the purpose of this Act, the term

- a. "Governor" means the Governor of Texas.
- b. "Board" means the Board of Water Engineers, or its successors.
- c. "Federal project" means any engineering undertaking or work for the purpose of the construction, enlargement or extension of any dam,

37. Vernon's Ann.Civ.St. art. 7472e.

lake, reservoir, or other water storage or flood control work, or any drainage, reclamation, or canalization undertaking, or for any one or more of such purposes, financed in whole or in part with funds of the Government of the United States of America.

d. "Engineering report" means the plans, data, profiles, maps, estimates, drawings, etc., prepared in connection with and as a basis for a "Federal project."

e. "Federal agency" means the Corps of Engineers of the United States Army, the Bureau of Reclamation of the United States Department of Interior, the Soil Conservation Service of the United States Department of Agriculture, the United States Section of the International Boundary and Water Commission, and any other agency of the United States Government whose functions include the conservation, development, retardation by impounding, control, or study of the water resources of the State of Texas or the Nation.

Sec. 2. Upon receipt by the Governor of Texas of any engineering report submitted by a Federal agency seeking the Governor's approval of a Federal project, the Governor shall forthwith forward such report to the Board of Water Engineers, or its successors, for board study and recommendations to the Governor as to the feasibility of the Federal project. The Board shall cause a public hearing to be held to receive the views of persons and groups who might be affected should the Federal project be initiated and completed. Notice of the time, place, nature and purpose of such public hearing shall be published once each week for two (2) consecutive weeks prior to the date stated in such notice for the hearing on such engineering report in some newspaper having a general circulation in that section of the State where the Federal project is to be located or the work done.

Sec. 3. The hearing by the Board shall be held in the same manner as in the case of a hearing on an application for a permit to appropriate State waters. After the Board has heard all of the evidence both for and against the approval of such Federal project, it shall enter its order either approving or disapproving the feasibility of the Federal project, giving its reasons therefor in such order.

Sec. 4. In determining feasibility, Board consideration shall be given, but not limited, to the following:

- (a) Effect of such Federal project on water users on the stream;
- (b) The public interest to be served;
- (c) Development of dam sites to the optimum potential for water conservation;
- (d) Integration of such Federal project with other water conservation activities;
- (e) Protection of the State's interests in the Texas water resources;
- (f) Engineering practicality of the Federal project, including cost of construction, operation, and maintenance.

Sec. 5. The Board shall forward to the Governor a certified copy of its order. Should the Board find the Federal project to be either feasible or not feasible, such finding shall be final and the Governor shall then notify the Federal agency that such Federal project has been either approved or disapproved.

Sec. 6. The provisions of this Act shall not apply to the State Soil Conservation Board so long as such Board has been designated by the Governor as the authorized State agency having supervisory responsibility to approve or disapprove of projects designed to effectuate watershed protection and flood prevention programs initiated in cooperation with the United States Department of Agriculture.

Sec. 7. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict, and should any section or provision hereof be declared unconstitutional or invalid, such invalidity shall not impair any remaining sections or provisions of this Act, and it is hereby declared to be the legislative intent that this Act would have been passed as to the remaining portions hereof, regardless of the invalidity of any part.

Sec. 8. The fact that there is presently no State law requiring a public hearing to be held to receive the views of interested parties concerning Federal projects, the desire to obtain public reaction to a Federal project at the earliest possible time in order to coordinate State and Federal water conservation and development planning, and the public interest to be served by this Act, constitute an emergency and imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the Rule is hereby suspended, and this Act shall be in effect from and after its passage, and it is so enacted.

Passed the House, March 2, 1955, by viva-voce vote; passed the Senate, March 16, 1955, by a viva-voce vote.

Approved April 2, 1955.

Effective 90 days after June 7, 1955, date of adjournment.

WATER CONTROL AND IMPROVEMENT DISTRICT— SELECTION OF DIRECTORS

CHAPTER 48

H. B. No. 34

An Act relating to the selection of directors of certain water control and improvement districts; amending Section 1 of Senate Bill No. 247, Acts of the Forty-sixth Legislature, Regular Session, 1939, Volume II, page 1105 (codified as Article 7880—38a in Vernon's Texas Civil Statutes), by changing "one hundred thousand (100,000) acres of land" to read "eighty thousand (80,000) acres of land"; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Section 1 of Senate Bill No. 247, Acts of the Forty-sixth Legislature, Regular Session, 1939, Volume II, page 1105, is hereby amended³⁸ to read as follows:

"Section 1. In any water control and improvement district, now or hereafter created, containing within its boundaries more than eighty thousand (80,000) acres of land and whose boundaries embrace lands within two (2) or more counties, the directors thereof may be selected either (a) by elections held throughout such district as provided in Section 37, Chapter 25 of the Acts of the Thirty-ninth Legislature, Regular Session, 1925, as amended by Section 6, of Chapter 107 of the Acts of the First Called Session of the Fortieth Legislature, 1927; or, (b) by elections held in separate precincts for election of one (1) director in each precinct, which method of selecting directors may hereinafter be referred to as 'precinct method'. Directors of such districts shall be elected in the manner provided in (a) above unless and until the 'precinct method' of selecting same

38. Vernon's Ann.Civ.St. art. 7880—38a,
§ 1.